

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

HARBOUR HOMES, LLC, a Washington
limited liability company,

Plaintiff,

v.

NEVADA CAPITAL INSURANCE
COMPANY, a Nevada insurance company,

Defendant.

No.

**NOTICE OF REMOVAL OF
CIVIL ACTION UNDER
28 U.S.C. §1441(a)**

TO: The Clerk of the Court;

AND TO: Plaintiff, and their counsel of record, Tristan Swanson.

Please take notice that Defendant Nevada Capital Insurance Company (hereinafter “Nevada Capital”) hereby removes to this Court the state court action described below:

I. THE SUBJECT ACTION

1. On March 4, 2019, Plaintiff, Harbour Homes, LLC, filed an action in the Superior Court of the State of Washington in and for the County of King, which was assigned Cause No. 19-2-06024-7 SEA. On March 6, 2019, Harbour Homes served Karen Bakios with a true and correct copy of the Summons attached as **Exhibit A** to this Notice of Removal as well as the Complaint. A copy of the Complaint is attached as **Exhibit B**.

II. DIVERSITY OF CITIZENSHIP

2. In the Complaint, Harbour Homes alleges they are a Washington Limited Liability Company doing business in King County, Washington.

3. Nevada Capital is an insurance company organized under the laws of the state of Nevada and with its primary place of business in Reno, Nevada.

III. AMOUNT IN CONTROVERSY

4. On July 3, 2018, Mario Perez Martinez and Maria Ceniceros filed suit against Harbour Homes in King County Superior Court alleging injuries sustained by Mr. Martinez while working as an employee for Delcon Construction, LLC where Harbour Homes was the general contractor and Delcon Construction a subcontractor.

5. Harbour Homes tendered a claim to Nevada Capital as an additional insured under a policy issued by Nevada Capital to Delcon Construction. Nevada Capital agreed to defend Harbour Homes subject to a reservation of rights.

6. It is Nevada Capital's understanding that Mr. Martinez's claims may exceed the one million dollar-per occurrence limit stated in the policy.

7. Harbour Homes' Complaint alleges that Nevada Capital breached a policy of insurance by failing to pay defense costs incurred by Harbour Homes in defending against claims asserted by Mr. Martinez. **Exhibit B** ¶¶ 17-19.

8. In addition to the breach of contract claims, Harbour Homes asserts claims for damages under common law bad faith and Washington's Consumer Protection Act. **Exhibit B**, ¶¶ 20-25, 30-31. Harbour Homes is further seeking their attorney fees incurred in this action under *Olympic Steamship*.

9. Harbour Homes also asserts claims for damages under the Insurance Fair Conduct Act. **Exhibit B**, ¶¶ 28-29.

1 10. The amount in controversy requirement may be satisfied by claims of general and
2 unspecified damages, claims for attorney's fees authorized by law, and by punitive damages.
3 *See, e.g., Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005); *Gibson v. Chrysler*
4 *Corp.*, 261 F.3d 927, 946 (9th Cir. 2001); *Galt v. Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir.
5 1998).

6 11. Based on the foregoing, the amount in controversy in this matter is in excess of
7 the \$75,000 jurisdictional limitation.

8 IV. JURISDICTION

9 12. For purposes of determining jurisdiction under 28 U.S.C. § 1332, Nevada Capital
10 is a citizen of Nevada. Harbour Homes is a citizen of Washington. As such, diversity is
11 complete.

12 13. The amount in controversy exceeds \$75,000, excluding interest and costs.

13 14. This Court, therefore, has jurisdiction over this controversy under 28 U.S.C. §
14 1332 and 28 U.S.C. § 1441.

15 V. TIMELINESS

16 15. Nevada Capital was notified of this lawsuit on March 6, 2019. This action was
17 filed on March 4, 2019. This Notice of Removal, filed on March 25, 2019, is timely under 28
18 U.S.C. § 1446.

19 VI. COPIES OF PROCESS, PLEADINGS, ORDERS, AND MOTIONS IN STATE 20 COURT PROCEEDINGS

21 16. In accordance with 28 U.S.C. § 1446, attached to Notice of Removal as **Exhibit A**
22 through **Exhibit E** are true and correct copies of all process, pleadings, and orders filed in the
23
24

1 action before the Superior Court of King County in the State of Washington. These documents
2 are:

3 A. Summons;

4 B. Complaint;

5 C. Civil Case Assignment Notice

6 D. Order Setting Case Schedule

7 E. Affidavit of Service by Insurance Commissioner

8 F. Notice of Appearance of Defendant

9 17. Notice of this removal will be filed with the Clerk of the King County Superior
10 Court and will be given to all other parties, in accordance with 28 U.S.C. § 1446.

11 DATED this 25th day of March, 2019.

12 LETHER & ASSOCIATES, PLLC

13
14 s/ Thomas Lether

s/ Eric J. Neal

15 Thomas Lether, WSBA #18089

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22 *Attorneys for Defendant Nevada Capital Insurance*
23 *Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the parties mentioned below as indicated:

Tristan Swanson, WSBA No. 41934
701 5th Ave. Ste. 4400
Seattle, WA 98104
tswanson@ashbaughbeal.com
Attorneys for Plaintiff

By: ☐ **First Class Mail** ☒ **E-mail/ECF** ☐ **Legal Messenger**

Dated this 25th day of March, 2019 at Seattle, Washington.

/s/ Lina Wiese
Lina Wiese | Paralegal